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Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition)
Act of 1992: Rate Regulation)

MM Docket No. 92-266

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**REPLY COMMENTS IN SUPPORT OF
PETITION FOR RECONSIDERATION**

The Home Shopping Network, Inc. ("HSN"), by its attorneys, hereby submits reply comments in the above captioned proceeding. As was indicated in its Petition for Reconsideration, HSN requests that the Commission eliminate the requirement in its "Going Forward" Rules^{1/} that cable operators offset revenue received from subscribers for the addition of certain new programming services with any sales commissions earned by the cable operators relating to carriage of those services and paid by the shop-at-home channels. No party submitted comments to the Commission opposing this request^{2/}; indeed the only

1/ These rules were announced in Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket No. 92-266, Sixth Order on Reconsideration, Fifth Report and Order, and Seventh Notice of Proposed Rulemaking, FCC 94-286 (adopted: November 10, 1994; released: November 18, 1994)(referred to herein as the "Going Forward Rules").

2/ The City of St. Joseph and Benton Charter Township ("West Michigan Communities") did submit their own petition for reconsideration of the Going Forward Rules. As HSN noted in its Opposition to that petition, however, the Commission's clarification of its rules to comport with its previously issued clarification of the original language and intent of the rule cannot now be the subject of a petition for reconsideration, nor should it be. In any event, the West Michigan Communities did not oppose the HSN Petition for Reconsideration at issue here.

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comments submitted support HSN's request.^{3/}

As explained in the Petition, a rule requiring offsets for shop-at-home commissions will result in cable operators favoring one category of programming service over another, despite the Commission's goal of establishing rules which avoid judgments over the relative value to subscribers of particular programming offerings. In practice the rules as currently written discriminate in favor of advertiser-supported programming wherein advertising revenues need not be offset against the rates permitted for the addition of new programming.

In the absence of any comments opposing its request, HSN will not repeat the points raised in its initial petition. It is important, however, that the Commission act quickly to rectify the imbalance that now exists in the marketplace. The record in this matter clearly supports adoption of the requested revision to the Going Forward Rules and fulfillment of that request should not be held in abeyance pending resolution of issues raised in other petitions for reconsideration over which there are disparate views. Rather, the Commission ought to amend its rules immediately to eliminate the differing treatment now accorded categories of programming services and to re-establish parity for shop-at-home services with the more traditional, advertiser-supported program services.

^{3/} See, Comments In Support Of Petitions For Reconsideration of Jones Infomercial Network, Inc., and Response To Petitions For Reconsideration of Black Entertainment Television, Inc. A similar Petition for Reconsideration was filed by QVC, Inc., and like the HSN Petition, no comments in opposition to that petition were submitted.

For the above stated reasons, HSN respectfully requests the Commission to amend its *Going Forward Rules* to eliminate the sales commission offset requirement.

Respectfully submitted,

HOME SHOPPING NETWORK, INC.

By: 

Brenda L. Fox

Peter H. Feinberg

DOW, LOHNES & ALBERTSON

1255 Twenty-Third Street, N.W.

Suite 500

Washington, D.C. 20037

(202) 857-2500

Its Attorneys

February 16, 1995

CERTIFICATE OF SERVICE

I, Christine M. Diebolt, hereby certify that on this 16th day of February, 1995, a copy of the foregoing "Reply Comments in Support of Petitions for Reconsideration" has been served by first class United States mail, postage prepaid, upon the following:

Philip L. Verveer, Esq.
Sue D. Blumenfield, Esq.
Willkie Farr & Gallagher
1155 21st Street, NW
Suite 600
Washington, DC 20036

Counsel for QVC, Inc.

Peter H. Feinberg, Esq.
Michael J. Pierce, Esq.
Dow, Lohnes & Albertson
1255 23rd Street, NW
Suite 500
Washington, DC 20036

Counsel for Jones Infomercial Network, Inc.


Christine M. Diebolt